



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

WEST HOUSTON SURGICARE
970 CAMPBELL ROAD
HOUSTON TX 77024

Respondent Name

INDEMNITY INSURANCE CO OF NORTH AMERICA

Carrier's Austin Representative Box

Box Number 15

MFDR Tracking Number

M4-10-3049-01

MFDR Date Received

MARCH 2, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Suppose to pay to our Aetna allowed contract rate."

Amount in Dispute: \$4,755.20

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "It is the Respondent's contention that the services were correctly paid pursuant their contract with Aetna which Requestor provided. Requestor did not bill revenue code 278 on their HCFA-1500 in which they are requesting additional reimbursement, and the amount of the implant invoices do not match the charges on the HCFA-1500."

Response Submitted by: Downs Stanford. PC

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 18, 2009	CPT Code 29888-RT	\$4,755.20	\$0.00
	CPT Code 29880-RT		\$0.00
	CPT Code 20900-RT		\$0.00
	CPT Code C1713		\$0.00
	HCPCS Code L8699		\$0.00
	J2405-59 (X8)		\$30.40
TOTAL		\$4,755.20	\$30.40

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.402, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
3. Texas Labor Code Ann. §413.011(d-3) states the division may request copies of each contract and that the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract is not provided in a timely manner to the division.
4. 28 Texas Administrative Code §133.4, effective July 27, 2008, requires the insurance carrier to notify providers of contractual agreements for informal and voluntary networks.
5. 28 Texas Administrative Code §134.203 set out the fee guideline s for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 5-The procedure code/bill type is inconsistent with the place of service.
- BL-To avoid duplicate bill denial, for all recon/adjustments/additional pymnt requests, submit a copy of this EOR or clear notation tha
- 18-Duplicate Claim/Service
- 19-(197)-This line was included in the reconsideration of this previously reviewed bill.
- BL-Section 413.042 of the Texas Labor Code prohibits a provider from balance billing an injured worker for Workers' Compensation Compen.

Issues

1. Does the documentation support notification requirements in accordance with 28 Texas Administrative Code §133.4?
2. Did the requestor support position that additional reimbursement is due for implantables?
3. Did the requestor support position that additional reimbursement is due for ASC services for code 29888-RT?
4. Did the requestor support position that additional reimbursement is due for ASC services for code 29880-RT?
5. Did the requestor support position that additional reimbursement is due for ASC services for code 20900-RT?
6. Did the requestor support position that reimbursement is due for ASC services for code J2405-59?

Findings

1. 28 Texas Administrative Code §133.4(g) states "Noncompliance. The insurance carrier is not entitled to pay a health care provider at a contracted fee negotiated by an informal network or voluntary network if:
(1) the notice to the health care provider does not meet the requirements of Labor Code §413.011 and this section; or
(2) there are no required contracts in accordance with Labor Code §413.011(d-1) and §413.0115."

On September 22, 2010, the Division requested a copy of the written notification to the health care provider pursuant to 28 Texas Administrative Code §133.4. No documentation was provided to sufficiently support that the respondent notified the requestor of the contracted fee negotiation in accordance with 28 Texas Administrative Code §133.4(g).

28 Texas Administrative Code §133.4(h) states "Application of Division Fee Guideline. If the insurance carrier is not entitled to pay a health care provider at a contracted rate as outlined in subsection (g) of this section and as provided in Labor Code §413.011(d-1), the Division fee guidelines will apply pursuant to §134.1(e)(1) of this title (relating to Medical Reimbursement), or, in the absence of an applicable Division fee guideline, reimbursement will be based on fair and reasonable reimbursement pursuant to §134.1(e)(3) of this title."

The Division concludes that the respondent's is not entitled to pay the requestor at a contracted fee reduction; therefore, the disputed services will be reviewed per applicable Division rules and guidelines.

2. The respondent states in the position summary that "Requestor did not bill revenue code 278 on their HCFA-

1500 in which they are requesting additional reimbursement, and the amount of the implant invoices do not match the charges on the HCFA-1500."

28 Texas Administrative Code §134.402(f) states "The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the Federal Register, or its successor. The following minimal modifications apply:

- (1) Reimbursement for non-device intensive procedures shall be:
 - (A) The Medicare ASC facility reimbursement amount multiplied by 235 percent; or
 - (B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive procedure shall be the sum of:
 - (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and
 - (ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent."

On the Table of Disputed Services the requestor has listed HCPCS codes C1713, L8699 and J2405.

28 Texas Administrative Code §134.402(b)(5) defines "Implantable" means an object or device that is surgically:

- (A) implanted,
- (B) embedded,
- (C) inserted,
- (D) or otherwise applied, and
- (E) related equipment necessary to operate, program, and recharge the implantable."

HCPCS code J2405 is defined as "Injection, ondansetron HCl, per 1 mg." The Division finds that HCPCS code J2405 does not meet the definition of implantable per 28 Texas Administrative Code §134.402(b)(5). Therefore, 28 Texas Administrative Code §134.402(f)(1)(B) does not apply to HCPCS code J2405.

HCPCS code L8699 is defined as "Prosthetic implant, not otherwise specified."

HCPCS code C1713 is defined as "Anchor/screw for opposing bone-to-bone or soft tissue-to-bone (implantable)."

Therefore, 28 Texas Administrative Code §134.402(f)(1)(B) applies to HCPCS codes L8699 and C1713.

A review of the October 22, 2009 medical bill indicates "J2405 codes payable separately pre Medicare guidelines. See example file attached."

The December 2, 2009 medical bill indicates "J2405 payable separately per Mcare guidelines Implant payable-invoice attached + itemized."

These bills do not clearly support the requestor sought separate reimbursement for the implantables.

Furthermore, 28 Texas Administrative Code §134.402(g)(1)(B) states "include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: 'I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge,' and shall be signed by an authorized representative of the facility or surgical implant provider who has personal knowledge of the cost of the implantable and any rebates or discounts to which the facility or surgical implant provider may be entitled."

A review of the submitted documentation does not support the invoices were certified in accordance with 28 Texas Administrative Code §134.402(g)(1)(B).

The Division concludes that the requestor did not support position that separate reimbursement for the implantables was requested; therefore, reimbursement for the services is in accordance with 28 Texas Administrative Code §134.402(f)(1)(A).

3. 28 Texas Administrative Code §134.402(d) states " For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section." CPT code 29888 is defined as "Arthroscopically aided anterior cruciate ligament repair/augmentation or reconstruction."

28 Texas Administrative Code §134.402(f) reimbursement for non-device intensive procedure for CPT code 29888 is:

The Medicare fully implemented ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures fully implemented ASC relative payment weight for CY 2009 = 46.3214

This number is multiplied by the 2009 Medicare ASC conversion factor of \$41.393 X 46.3214 = \$1,917.38.

The Medicare fully implemented ASC reimbursement rate is divided by 2 = \$1,917.38/2 = \$958.69.

This number X City Conversion Factor/CMS Wage Index for Houston is \$958.69 X 0.9838 = \$943.15.

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement \$958.69 + \$943.15 = \$1,901.84.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment \$1,901.84 X 235% = \$4,469.32.

The MAR for CPT code 29888 is \$4,469.32. The insurance carrier paid \$4,469.35. Therefore, additional reimbursement is not recommended.

4. CPT code 29880 is defined as "Arthroscopy, knee, surgical; with meniscectomy (medial AND lateral, including any meniscal shaving) including debridement/shaving of articular cartilage (chondroplasty), same or separate compartment(s), when performed."

28 Texas Administrative Code §134.402(f) reimbursement for non-device intensive procedure for CPT code 29880 is:

The Medicare fully implemented ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures fully implemented ASC relative payment weight for CY 2009 = 27.6853

This number is multiplied by the 2009 Medicare ASC conversion factor of \$41.393 X 27.6853 = \$1,145.97.

The Medicare fully implemented ASC reimbursement rate is divided by 2 = \$1,145.97/2 = \$572.98.

This number X City Conversion Factor/CMS Wage Index for Houston is \$572.98 X 0.9838 = \$563.69.

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement \$572.98 + \$563.69 = \$1,136.67.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment \$1,136.67 X 235% = \$2,671.17.

This code is subject to multiple procedure rule discounting; therefore, \$2,671.17 X 50% = \$1,335.58.

The MAR for CPT code 29880 is \$1,335.58. The insurance carrier paid \$1,335.62. Therefore, additional reimbursement is not recommended.

5. CPT code 20900 is defined as "Bone graft, any donor area; minor or small (eg, dowel or button)."

28 Texas Administrative Code §134.402(f) reimbursement for non-device intensive procedure for CPT code 20900 is:

The Medicare fully implemented ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures fully implemented ASC relative payment weight for CY 2009 = 28.1246

This number is multiplied by the 2009 Medicare ASC conversion factor of \$41.393 X 28.1246 = \$1,164.16.

The Medicare fully implemented ASC reimbursement rate is divided by 2 = \$1,164.16/2 = \$582.08.

This number X City Conversion Factor/CMS Wage Index for Houston is \$582.08 X 0.9838 = \$572.65.

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement \$582.08 + \$572.65 = \$1,154.73.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment \$1,154.73 X 235% = \$2,713.61.

This code is subject to multiple procedure rule discounting; therefore, \$2,713.61 X 50% = \$1,356.80.

The MAR for CPT code 20900 is \$1,356.80. The insurance carrier paid \$1,356.81. Therefore, additional reimbursement is not recommended.

6. HCPCS Code J2405 is defined as "Injection, ondansetron HCl, per 1 mg." HCPCS code J2405 has a payment indicator of "K2".

The K2 payment indicator is defined as "Drugs and biological paid separately when provided integral to a surgical procedure on ASC list".

28 Texas Administrative Code §134.402 (h) states "For medical services provided in an ASC, but not addressed in the Medicare payment policies as outlined in subsection (f) of this section, and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided."

28 Texas Administrative Code §134.203(d) states “The MAR for Healthcare Common Procedure Coding System (HCPCS) Level II codes A, E, J, K, and L shall be determined as follows: (1) 125 percent of the fee listed for the code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule.”

Per the Medicare Part B Drugs, HCPCS code J2405 has an allowance of \$0.191/mg. The requestor billed for 20 mg/injection; therefore, \$0.191 multiplied by 20 = \$3.82.

Per 28 Texas Administrative Code §134.203(d)(1), this amount multiplied by 125% = \$4.77. The requestor billed for eight injections. Therefore, \$4.77 multiplied by 8 = \$38.16. The requestor is seeking a lesser amount of \$30.40 (\$3.80 X 8); this amount is recommended for reimbursement.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports the reimbursement amount sought by the requestor. The Division concludes that the requestor supported its position that additional reimbursement is due. As a result, the amount ordered is \$30.40.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$30.40 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

2/20/2013
Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.